

REMARKS

Claims 1 and 4-5 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6-7 of copending application No. 09/903,715 in view of Riede et al (United States Patent No. 4,293,409) ("Riede").

Claims 6-7 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of copending application No. 09/903,715 in view of Riede and further in view of Shouldice (United States Patent No. 4,814,073) ("Shouldice").

Claims 1-7 are provisionally rejected under 35 U.S.C. §103(a) as being obvious over copending application No. 09/903,715 which has a common assignee with the instant application.

Claims 1 and 4-5 are rejected under 35 U.S.C. §103(a) as being unpatentable over claims 1 and 6-7 of copending Application No. 09/903,715 in view of Riede.

Claims 6-7 are rejected under 35 U.S.C. §103(a) as being unpatentable over claims 1-9 of copending Application No. 09/903,715 in view of Riede and further in view of Shouldice.

A terminal disclaimer is submitted herewith to overcome the double patenting grounds of rejection. The disclaimer provides that a patent issuing from the present application will expire at the same time as any patent issuing from copending application Serial No. 09/903,715. Additionally, the terminal disclaimer provides that common ownership of the patent issuing from this application and the patent issuing from the copending application will be maintained.

Regarding the 35 U.S.C. § 103(a) rejections, 35 U.S.C. § 103(c) provides that subject matter that qualifies as prior art only under 35 U.S.C. § 102(e), 102(f) or 102(g), is not effective if the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same "person" or subject to an obligation of assignment to the same "person". ("Person" includes corporate entities). In the present case, a patent issuing from the copending application will qualify as prior art only under 35 U.S.C. § 102(e). Therefore, to remove the related application as prior art against the claims of the present application, applicants state:

"U.S. Patent Application No. 09/903,715 was owned by Nipro Corporation, and Application Serial No. 09/912,317 was subject to an obligation of assignment to Nipro Corporation at the time the invention of Application Serial No. 09/912,317 was made."

Removal of the double patenting grounds of rejection and the 35 U.S.C. § 103(a) grounds of rejection and a notice of allowability of the present application are believed to be in order and are respectfully solicited.

The foregoing is believed to be a complete and proper response to the Office Action dated August 4, 2003, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

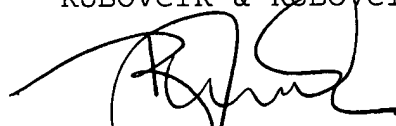
PATENT APPLN. NO. 09/912,317
RESPONSE UNDER 37 C.F.R. §1.111

**PATENT
NON-FINAL**

A check in the amount of \$110.00 for the fee for the statutory disclaimer is attached hereto. In the event any additional fees are required, please charge our Deposit Account No. 111833.

Respectfully submitted,

KUBOVCIK & KUBOVCIK

A handwritten signature in black ink, appearing to read 'R. Kubovcik', is written over the printed name.

Ronald J. Kubovcik
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Attachment: Terminal Disclaimer
Check for \$110.00